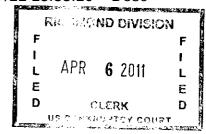
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IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF VIRGINIA RICHMOND DIVISION

X	
In re:	CHAPTER 11
:	
CIRCUIT CITY STORES, INC., ET AL., :	Case No. 08-35653-KRH
:	
Debtors. :	
х	Jointly Administered

RESPONSE OF CERMAK PLAZA ASSOCIATES, LLC TO TRUSTEE'S SECOND OMNIBUS OBJECTION TO LANDLORD CLAIMS

Cermak Plaza Associates, LLC ("Cermak") hereby submits its Response to the Trustee's Second Omnibus Objection to Landlord Claims dated February 25, 2011 (the "Objection"), pursuant to which the Trustee seeks, among other things, to reduce Cermak's claim in this matter from \$129,231.44 to \$78,433.03. Cermak respectfully requests that the Objection be overruled, and that its claim be allowed in the amount of \$117,720.49, and further states as follows:

- 1. Cermak filed a timely proof of claim in this matter on April 30, 2009 in the amount of \$129,231.44 (the "Cermak Claim"), designated as Claim Number 12809. The Cermak Claim is based on unpaid rent, taxes and CAM charges due in connection with the lease entered into by Circuit City Stores, Inc. ("Circuit City") for a store located in Cermak Plaza, Berwyn, Illinois (the "Cermak Plaza Lease").
- 2. Filed with this Response is the Declaration of Michael Flight, President of Concordia Realty Management Inc., which is Cermak's managing agent at Cermak Plaza. As set forth in the Flight Declaration, the amount of \$117,720.40 remains due to Cermak associated with Circuit

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City's nonpayment of rent, CAM charges and taxes due under the Cermak Plaza Lease. This amount is broken down by date and category in the ledger and summary collectively attached as Exhibit A to the Flight Declaration. A copy of the Cermak Plaza Lease will be provided upon request.

- 3. The records attached to the Flight Declaration contradict the Trustee's position in the Objection that the Cermak Claim should be reduced to \$78,433.03 (by deducting \$39,133.73 for administrative rent, \$9,031.58 for prepetition CAM charges and \$2,633.10 for postpetition CAM charges). In fact, (i) the portion of the Cermak Claim constituting administrative rent is less than the amount of the reduction for this item sought by the Trustee (i.e., the Cermak Claim is comprised of only \$25,924.43 in administrative rent, principally due for the month of November 2008), (ii) the postpetition CAM charges sought by Cermak (i.e., \$2,633.10) were incurred in November 2008 when the Cermak Plaza store was still occupied by Circuit City; and (iii) the prepetition CAM charges sought to be deducted from the Cermak Claim were incurred by Circuit City in 2007 and are properly due as prepetition damages under the Cermak Plaza Lease.
- 4. Any reply by the Debtors or the Trustee to this Response should be directed to the following counsel: Jane W. Arnone, Esq., Benanti & Associates, 350 Bedford Street, Suite 201, Stamford, CT 06901; Telephone (203) 324-9559; Facsimile (203) 358-8582; Email: benanti_associates@msn.com. Such counsel should also be contacted to negotiate any possible

resolution of the Objection.

WHEREFORE, Cermak respectfully requests that the Objection be overruled, and that the Cermak Claim be allowed in the amount of \$117,720.40.

Dated: April 5, 2011

CERMAK PLAZA ASSOCIATES, LL

By

Michael Flight

Concordia Realty Management, Inc.

10031 West Roosevelt Road

Suite 200

Westchester, IL 60154

Phone: (708) 344-9242

Direct (708) 344-9161 ext. 225

Fax: (708) 344-9244

Database: CRM	\$		CM Receivables Ledger Concordia Realty Management	nt.		D. Pa	
Occupancy Status: Current Inactive New	s: Current Insc	地 New	01/08 Through 12/09			· ·	orios Par
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CERMAK-CIRCUI		CIRCUIT CITY SUPERSTORE	JIM REMOLEMS. JONI ADAMS		(804) 527-4000	Master Occp id:	D0000025-1
Balance Forward	rward					0.00	
CERMAKCIRCUI	1/1/2008	CAA CAM ADMIN FEE	CH AUTOCHRG	239.41		239.41	
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CERMAKCIRCUI	1/3/2008	CAA CAM ADMINI FEE	CH AU OCHRG	25,918.00	239.41	28,552.10	CHK
CERMAKCIRCUI	1/3/2008				2,393.69		CHK
CERMACIRCUI	2/1/2008	CAA CAM ADMIN, FEE	CH AUTOCHRG	239.41	25,919.00	0.00 4458942	CHK
CERMAKCIRCUI	2/1/2008			2,383.69		2,633.10	
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ITEMS NOT PAID BY CIRCUIT CITY

Date	Description	Debit	Credit
8/25/2008	2007 Cam Rec	\$ 1,160.63	
8/25/2008	2007 Cam Rec	\$ 11,606.28	
10/31/2008	2007 Cam Adjustmt		\$ 87.63
10/31/2008	2007 Cam Adjustmt		\$ 1,949.35
11/10/2008	RE Tax Billing	\$ 78,433.03	
11/1/2008	Nov 08 Cam Admin	\$ 239.41	
11/1/2008	Nov 08 Cam	\$ 2,393.69	
11/1/2008	Nov 08 Rent	\$ 25,919.00	
2/1/2009	Feb 09 Rent - shortage	\$ 0.14	
3/1/2009	Mar 09 Rent - shortage	\$ 5.29	
TOTAL		\$ 119,757.47	\$ 2,036.98
TOAL PMNTS	DUE CERMAK PLAZA		\$ 117,720.49

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)	
- ,) SS: WESTCHESTER	APRIL 5, 2011
COUNTY OF Cook)	

Michael Flight, being duly swom, deposes and says under penalty of perjury as follows:

- 1. I am over the age of eighteen (18) and believe in the obligations of an oath.
- 2. I hereby certify that on April 5, 2011, copies of the foregoing were forwarded via overnight delivery service to the following:

Jeffrey N. Pomerantz, Esq. Andrew W. Caine, Esq. Pachulski Stang Ziehl & Jones, LLP 10100 Santa Monica Blvd. Los Angeles, CA 90067-4100 Facsimile: (310) 201-0760

Lynn L. Tavenner, Esq.
Paula S. Beran, Esq.
Tavenner & Beran, PLC
20 North Eighth Street, 2nd Floor
Richmond, VA 23219
Facsimile: (804) 783-0178

Michael Flight

IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF VIRGINIA RICHMOND DIVISION

	_X	
In re:	: CHAPTER 11	
CIRCUIT CITY STORES, INC., ET AL.	: , : Case No. 08-356	553-KRH
	:	
Debtors.	:	
	_x Jointly Adminis	tered
DECLARATION OF MICHAEL OF CERMAK PL	. FLIGHT IN SUPPOR' AZA ASSOCIATES, L	
STATE OF ILLINOIS)		
) SS :	WESTCHESTER	APRIL 5, 2011

Michael Flight, being duly swom, deposes and says under penalty of perjury as follows:

1. I am over the age of eighteen (18) and believe in the obligations of an oath.

COUNTY OF COOK

- 2. As the President of Concordia Realty Management Inc. ("Concordia"), which is the managing agent for Cermak Plaza Associates, LLC ("Cermak"), I am fully familiar with the facts and circumstances contained herein, and the same are true to the best of my knowledge, information and belief. Further, I have personal knowledge of the books and records of Cermak, maintained in the ordinary course of Cermak's business, as those books and records relate to the instant matter.
- 3. I make this Declaration in support of Cermak's Response to the Trustee's Second Omnibus Objection to Landlord Claims dated February 25, 2011 (the "Objection"), pursuant to

Case 08-35653-KRH Doc 10403 Filed 04/06/11 Entered 04/07/11 15:33:10 Desc Main Document Page 10 of 12

which the Trustee seeks, among other things, to reduce Cermak's claim in this matter from \$129,231.44 to \$78,433.03.

- 4. Cermak filed a timely proof of claim in this matter on April 30, 2009 in the amount of \$129,231.44 (the "Cermak Claim"), designated as Claim Number 12809. The Cermak Claim is based on unpaid rent, taxes and CAM charges due in connection with the lease entered into by Circuit City Stores, Inc. ("Circuit City") for a store located in Cermak Plaza, Berwyn, Illinois (the "Cermak Plaza Lease").
- 5. Collectively attached hereto as Exhibit A is a portion of the ledger maintained by Concordia for the Cermak Plaza Lease, together with a report detailing a list of the unpaid items remaining due from Circuit City in connection with the Cermak Plaza Lease and its occupancy of the Cermak Plaza store. As indicated in these documents, the amount of \$117,720.40 remains due to Cermak associated with Circuit City's nonpayment of rent, CAM charges and taxes due under the Cermak Plaza Lease.
- 6. Based on the attached records, the Cermak Claim should be allowed in the amount of \$117,720.40. The Trustee's request in the Objection that the Cermak Claim be reduced to

\$78,433.03 is not supported by accurate records and should be defined

Michael Flight

Subscribed and sworn to before me this 5 th day of April, 2011

Notary Public

OFFICIAL SEAL
DIANE TURNBULL
Notary Public - State of Himols
My Commission Expires Aug 25, 2014



10031 W. Roosevelt Rd. Suite 200 Westchester, IL 60154 Phone: (708) 344-9242 Fax: (708) 344-9244 www.concordiarealty.com

April 5, 2011

Clerk of the Bankruptcy Court United States Bankruptcy Court 701 E. Broad Street Room 4000 Richmond, VA 23219

RE: Circuit City

Cermak Plaza - Berwyn, IL

Please find enclosed the following documents:

- Declaration of Michael Flight in Support of Response Of Cermak Plaza Associates, LLC
- Response of Cermak Plaza Associates, LLC to Trustee's Second Omnibus Objection to Landlord Claims
- Affidavit of Service

If you have any questions please call Michael Flight at 708.344.9242.

Sincerely yours,

Concordia Realty Management, Inc.

As Agent for Cermak Plaza Associates, LLC

Michael J. Hight

Enclosures